

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF VERMONT

STEPHEN BAIN,  
Plaintiff

v.

ROBERT HOFMANN,  
PRISON HEALTH SERVICES, INC.,  
VERMONT DEPARTMENT OF  
CORRECTIONS,  
Defendants

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File No. 1:06-CV-189

**ORDER**

The Magistrate Judge's Report and Recommendation was filed May 24, 2007 (Paper 23). After de novo review and over objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1). Plaintiff's motions for default judgment (Papers 20 and 22) are DENIED. Prison Health Services, Inc.'s motion to dismiss (Paper 17) is GRANTED without prejudice.

The parties shall file a proposed discovery schedule pursuant to L.R. 26.1(b) on or before July 27, 2007.

This matter is returned to Magistrate Judge Niedermeier for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 28th day of June, 2007.

/s/ J. Garvan Murtha  
J. Garvan Murtha  
United States District Judge